

## REMARKS

### **I. Status of the Claims**

Claims 1-65 were filed with the original application. Claims 2-4, 6-9, 20-22, 24-41 and 50-55 stand withdrawn pursuant to a restriction requirement, and thus claims 1, 5, 10-19, 23, 42-49 and 56-65 are under examination and are either objected to or rejected, variously, under 35 U.S.C. §112 (first and second paragraphs) or 35 U.S.C. §102. The specific grounds for rejection, and applicants' response thereto, are set out in detail below.

### **II. Objections to the Claims and Disclosure**

Claim 10 is objected to as containing a misspelled word. This has been corrected by the amendment, above.

The specification at page 2 is objected as having the government rights sentence before the priority claim. This has been corrected by the amendment, above.

The specification at page 32 is objected for lack of SEQ ID NOs. This has been corrected by the amendment, above.

### **III. Rejection Under 35 U.S.C. §112, First Paragraph**

Claims 19, 23, 42-29 and 58-65 stand rejected under the first paragraph of §112 as lacking an enabling disclosure preventing bacterial infection and attachment and identifying receptors in bacteria other than *Staphylococcal* and *Haemophilus* species. Applicants traverse, but in the interest of advancing the prosecution, applicants have amended the claims to address the perceived deficiencies. Reconsideration and withdrawal of the rejection is therefore respectfully requested.

#### **IV. Rejections Under 35 U.S.C. §112, Second Paragraph**

Claim 16 is rejected as indefinite in the use of the term “about.” An amendment is provided. Claims 43 and 44 are rejected for the recitation of “*in vivo*.” Amendments have been provided to remove the rejected language. Reconsideration and withdrawal of the rejections is respectfully requested.

#### **V. Rejection Under 35 U.S.C. §102**

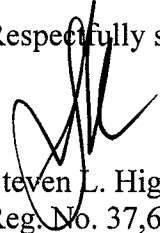
Claim 56 is rejected as anticipated by U.S. Patent 5,466,671 (“the ‘671 patent”). The examiner argues that the peptides of the ‘671 patent are not distinguishable from the peptides of claim 56 as they are defined only by the steps by which they are obtained. Thus, because the ‘671 patent’s peptides are active against *H. influenzae*, it is assumed to meet the limitations of claim 56. Applicants traverse.

As noted in the Examples, the peptides of the present application were able to kill *H. influenzae* and could inhibit the growth, though not kill, *S. aureus*. In contrast, the peptides of the ‘671 patent killed *H. influenzae* but had no activity against Gram positives such as *S. aureus*. Thus, applicants believe that claim 56 as presented for reconsideration is distinguishable from the peptides of the ‘671 patent. Reconsideration and withdrawal of the rejections is therefore respectfully requested.

**VI. Conclusion**

In light of the foregoing, applicants submit that all claims are in condition for allowance, and an early notification to that effect is earnestly solicited. Should the examiner have any questions or comments regarding this application, a telephone call to the undersigned is invited.

Respectfully submitted,



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